



**REGION 6**

**FY 1999  
OECA MOA**

**END-OF-YEAR  
REPORT**

December 6, 1999



# **Summary of Top Accomplishments**



**Priority:** National Iron and Steel Sector

**Activity:**

The National Iron and Steel Sector strategy was finalized September 27, 1999, with significant participation and input from Region 6. As part of the Strategy and MOA commitment, the Region targeted for inspection the mini-mills (facilities that produces steel by melting scrap steel in electric arc furnaces) which had not had a *recent* inspection by the state or EPA, or were not involved in an ongoing enforcement action. Region 6 has 14 mini-mill facilities within the five states of the Region. During the FY98 and FY99 time frames, all of the mini-mills were inspected by the states. In addition, during this time, three were inspected for compliance with the Clean Air Act by Region 6.

**Accomplishments:**

Of the three facilities inspected by EPA, all were found to be in violation of the Clean Air Act and were referred to the Department of Justice requesting that a civil enforcement action be initiated. The only enforcement action resulting from the State inspections included an Agreed Board Order in Jewett, Texas, which was issued by the Texas Natural Resource Conservation Commission. Although the National Iron and Steel Sector strategy envisions a self-disclosure program in FY2000 that affords facilities the opportunity to perform self-audits for compliance and in turn become eligible for penalty reduction, the strategy's enforcement component remains in place. Accordingly, Region 6 has targeted two additional facilities for inspection in FY2000.



**Priority:** Petroleum Refineries and Air PSD/NSR

**Activity:**

**Air Program:**

Three refineries were the subject of in-depth investigations in FY98 and nine were investigated in FY99. The inspection and sampling portion of the investigation have been completed for all twelve refineries. The in-depth investigations focused on Prevention of Significant Deterioration/New Source Review (PSD/NSR), Leak Detection and Repair (LDAR) and Benzene Subpart FF. There appears to be significant violations in all three inspection areas; however, violations in these areas were not evident at each refinery. The areas where inspected facilities have high noncompliance rates are Benzene Subpart FF and LDAR. Record reviews and actual sampling have uncovered a lack of controls for benzene wastes and poor sampling and maintenance procedures for LDAR. Headquarters contractors assisted with PSD/NSR record reviews. Region 6 has also started a program to evaluate calibration procedures for Continuous Emission Monitoring Systems (CEMS) at refineries. The reliability and accuracy of CEM system data are dependent on whether the operator properly calibrates the system on an ongoing basis. Three (3) refineries were audited in FY99 and all three had calibration problems that would affect data quality. In FY2000 a letter will be sent to Region 6 refineries providing instructions on how to correctly calibrate CEMS equipment. The letter will be followed with 4-5 audits of refineries to ensure they are using the correct procedures.

**EPCRA 313 Program:**

Region 6 committed to three inspections pursuant to the Emergency Planning and Community Right-to-Know Act (EPCRA), Section 313 (toxic chemical emissions reporting).

**Accomplishments:**

**Air Program:**

There were two referrals to the Department of Justice. Both referrals contained PSD violations. As the review of the investigations progresses, additional referrals are expected. Reductions in pollutants will be attained due to the installation of Best Available Control Technology through the correction of PSD violations, the addition of controls to reduce benzene emissions, and the reduction of fugitive emission due to better LDAR sampling and maintenance procedures. As a result of the investigations, Benzene Subpart FF and PSD/NSR work groups have been established to identify ways to reduce emissions. In addition, EPA and one refinery operator are developing a procedure to identify and self report PSD/NSR noncompliance. The procedure will be distributed in FY2000 to refineries through the API and existing work groups.

A refinery investigation in 1999 revealed excessive downtime in the CEMS. A follow-up audit of the CEMS revealed poor calibration procedures. The violation and corrective action will be addressed in a planned FY2000 referral to DOJ.

**EPCRA 313 Program:**



Three inspections were completed thus meeting Region 6's commitment. While all three facilities had previously reported to the Toxic Release Inventory (TRI) database, various reporting and data quality violations were found at all three of these petroleum refining facilities, resulting in a 100% hit rate for this sector.



**Priority:** Industrial Organic Chemical Manufacturing

**Activity:**

Region 6 has been successful in partnering with Exxon Chemical Company, Houston, Texas to streamline the corrective action process to address soil and ground water contamination at the facility. A §3008(h) Letter Agreement between EPA and Exxon Chemical is being used as an innovative approach to address soil and ground water contamination.

**Accomplishments:**

The expedited approach shortens the corrective action process by reducing the amount of time and effort required to develop and negotiate a §3008(h) Order on Consent as well as a reduction of the reporting requirements of a traditional corrective action Order. It is the Region's goal to ensure that Houston Exxon Chemical Plant expeditiously delineates the horizontal and vertical extent of hazardous constituents, locate any source areas, and perform remedial activities to protect human health and the environment.

The EPA conducted a Case Development Inspection including sampling activities at the Exxon Chemical Company, Houston, Texas. This facility is ranked as a high priority facility according to the Region 6 R6CAPS. Sample analyses indicated the following elevated levels of various hazardous constituents are present in the soil and ground water: benzene, arsenic, lead and mercury. In a letter dated October 4, 1999, Exxon Chemical Company agreed to the conditions of the Letter Agreement issued by Region 6 on September 28, 1999.



**Priority:** Concentrated Animal Feeding Operations (CAFO)

**Activity:**

Through the use of contract inspectors, the Region has been able to inspect CAFO facilities in three states (Arkansas, New Mexico, and Oklahoma), with additional inspections, under contract by EPA, conducted by the State of New Mexico. No inspections were conducted in Louisiana because there are only three facilities in the state. Inspections in Texas took place in FY98, with more to be completed in FY2000. The FY99 inspections resulted in 96 facilities being reviewed for compliance with permit requirements or the Clean Water Act (CWA). Enforcement actions have been or will be taken against the facilities found to be noncompliant. In addition to the work done by contractors, the states of Oklahoma, Arkansas and Louisiana have conducted inspections of all the remaining major operations. Texas has inspected all facilities with citizens' complaints and the ones in dairy outreach areas (areas with impaired watersheds.)

**Accomplishments:**

Operator interest in the environmental and public health aspects of operations has greatly increased since these inspections began. The Professional organizations associated with each industry have shown a much stronger leadership in trying to get their farmers/growers to comply with the environmental laws than they did before these inspections took place. The Cattle Feeders Association has actually inspected all their members and instructed them on compliance.

For the contracted inspections, various outcomes resulted based on the needs and delegation status of each State. Inspection reports for Arkansas were forwarded to the State for action, the Oklahoma reports did not result in any enforcement actions, and the New Mexico inspections resulted in the issuance of 35 Letters for Information requests and 6 administrative orders. Region 6 will review the responses resulting from the Letters for Information requests to determine if further action will be required.



**Priority:** Concentrated Animal Feeding Operations (CAFO) Outreach

**Activity:** CAFO Outreach

Region 6 has developed an outreach strategy that reaches across division lines and is designed to educate a broad spectrum audience on the environmental issues involved with CAFOs. It is used to motivate the agricultural industry to effectively improve the water quality in impaired water bodies containing AFOs. This will create an increased public and industry awareness of EPA's role.

**Accomplishments:**

We will address water quality problems from CAFOs through education, technical and financial assistance, and seek input on solutions to problems associated with the expansion and consolidation of the industry.

It is our intent to foster partnerships between Federal, State, Tribal and local entities, and any other non-governmental organizations, and make appropriate use of diverse tools including voluntary, regulatory, and incentive-based approaches. We will coordinate activities between these partners and other organizations that influence the management and operation of CAFOs.

The ultimate goal of the Region 6 Outreach Strategy is to educate a broad spectrum audience on the environmental issues involved with CAFOs and to motivate the agricultural industry to effectively improve the water quality in impaired water bodies containing CAFOs. This will create an increased public and industry awareness of EPA's role.



**Priority:** Storm Water

**Activity:** Storm Water Outreach

Region 6 Compliance Assurance and Enforcement Division has had an ongoing outreach program regarding storm water compliance. The Region continues to maintain an Internet web page with storm water guidance, permits, regulations, databases, and contact information. Region 6 mailed out 6,000 "reminder" letters to the construction industry in Spring 1999. However, the most visible outreach has been through speaking at conferences and trade association meetings.

**Accomplishments:**

The following is a summary of the speaking engagements performed in fiscal year 1999:

| Target Audience<br>===== | Sessions<br>===== | Attendees<br>===== |
|--------------------------|-------------------|--------------------|
| State Personnel          | 2                 | 80                 |
| Municipalities           | 3                 | 160                |
| Lawyers (ABA)            | 2                 | 520                |
| Private Industry         | 9                 | 540                |
| Federal Facilities       | 1                 | 40                 |



**Priority:** Storm Water

**Activity:** Texas/New Mexico Auto Salvage Initiative

One of the industry sectors reporting the most pollutants in their storm water discharges according to group permit applications were auto salvage yards. Region 6 inspections revealed that few auto salvage yards had obtained storm water permits as required back in 1992. Additionally, Region 6 had been approached by two auto salvage trade associations expressing serious concerns that their compliance members were suffering a significant economic disadvantage competing against noncompliant facilities.

After years of outreach, it was decided an appropriate enforcement initiative was needed. However, there was some concern that the majority of auto salvage yards are very small businesses. The current Clean Water Act settlement policy would make most of the penalties so large that it would force many auto salvage yards out of business. A Region 6 initiative was proposed and approved by the Office of Enforcement and Compliance Assurance that allowed for a minimal penalty for salvage yards that would agree to come into compliance. This initiative allowed Region 6 to mail out penalty settlement offers to facilities that may be auto salvage yards. The settlement offer was a penalty amount of \$1,000 plus \$5 per salvage vehicle, and the facility had to agree to come into compliance by obtaining a permit and preparing and implementing a Storm Water Pollution Prevention Plan (SWPPP). A limit was put on the penalty amounts of \$5,000. Additionally, the offer was later modified to give a second option which allowed facilities to come into compliance by shutting down, removing the salvaged vehicles, removing any contaminated soils, and paying a flat penalty of \$1000. These facilities would not be required to obtain a permit or prepare a SWPPP.

**Accomplishments:**

Region 6 utilized State salvage license databases, State sales tax databases, yellow pages, and trade association lists to target the mailings. Additionally, Region 6 first targeted salvage yards located in impaired watersheds. While a number of responses indicated facilities were out of business or not primarily auto salvage yards, many facilities have accepted the settlement offers and agreed to come into compliance. The first six months of the initiative have resulted in more than 110 facilities agreeing to come into compliance and then resolve the violations by accepting this offer and paying the penalty. The average penalty is \$2115. While only about half of the offers have currently been mailed, the initiative appears to be a success in that facilities are coming into compliance and no facilities that are currently salvage yards have refused the settlement offer.



**Priority:** Municipalities

**Activity:**

Region 6 continued its efforts to eliminate sanitary sewer overflows in municipalities throughout the five states. Approximately eighty cities pursued correction of their sanitary sewer collection system problems as required by schedules in EPA Administrative Orders. Furthermore, EPA program staffs have provided technical assistance and advice to their State counterparts to assist them in developing an SSO strategy to address the problems in municipalities over which they have enforcement lead. In addition to this active and direct assault on the problem of SSOs, Region 6 staff members have actively participated in workgroups working toward the development of a cohesive and comprehensive national strategy for dealing with this issue. Drawing on nearly seven years of experience in SSO enforcement, the Regional participants on the workgroups have had a strong voice in shaping the policy.

**Accomplishments:**

In support of the overall effort to address Sanitary Sewer Overflows (SSO) and noncompliance problems at municipal wastewater treatment plants, EPA issued more than 120 administrative orders in FY99. The Region also inspected more than 120 municipal facilities during FY99. Significant civil referrals that were initiated to address SSOs include Monroe, Mandeville, and Baton Rouge, Louisiana.



**Priority:** Safe Drinking Water Act - Microbial

**Activity:** Drinking Water Optimization

Drinking water optimization was first developed in 1988 to provide a low-cost alternative to construction for surface water treatment plants with drinking water compliance problems. After the 1993 waterborne disease outbreak at Milwaukee, the program was expanded to not only comply with the regulations, but to also minimize the risks to public health at these treatment facilities by optimizing particulate removal. One part of the optimization program is to perform a performance evaluation that identifies the administrative, operation, design, and maintenance factors that adversely impact drinking water treatment and performance. For the 98/99 MOA, Region 6 committed to provide the training that would allow two states to have the expertise to conduct the performance evaluations.

**Accomplishments:**

Region 6 achieved its goal by training two states to conduct performance evaluations of surface water treatment plants. Interest generated by the training secured the participation of four states in an Area Wide Optimization program. The goal of the program is to evaluate and improve treatment performance of water systems, and impact public health on a broad scale. The treatment goals adopted by the states far exceed the regulatory requirements. This program started in 1999 and will impact approximately 200 water systems by the end of FY2000.

Over the past two years, EPA Region 6 has been developing performance evaluation procedures for ground water systems that also go beyond the minimum standards and apply additional methods of public health protection. The first evaluation was conducted in July 1999 at the Mossville water treatment system in Louisiana. The evaluation identified areas for improvements that normally would not be found by conducting a regular inspection or regulatory sampling. Minimal corrections to the water treatment system will further reduce any contamination risks to the water supply. The Region plans to continue development of this compliance tool for future use.



**Priority:** Dry Cleaning Sector (Clean Air Act)

**Activity:**

During FY99, Region 6 began a transition from extensive compliance assistance/inspections to a formal enforcement emphasis against the worst and/repeat violators in the Dry Cleaning Priority Sector. In previous years, the compliance assistance approach was applied to the regulated community. Approximately 2,000 dry cleaners were contacted through on-site visits, seminars (conducted by both the region and state small business programs), and distribution of compliance videos/dry cleaning regulatory manuals.

**Accomplishments:**

Region 6 reduced the FY99 inspection goal to 150 inspections for the purpose of directing more attention to revisiting dry cleaners where problems were noted but formal enforcement was not previously taken and to inspect new dry cleaners and dry cleaning establishments that have not provided the required compliance reports to EPA. The Region conducted 159 inspections in FY99. Four compliance orders were issued and two additional compliance orders will be completed in FY2000.

Region 6 conducted joint inspections with states inspectors in Texas, Louisiana, and New Mexico. These served as routine inspections, as well as providing orientation and training for states, in preparation for the Region 6 delegation of the Dry Cleaning Sector. Dry Cleaning Inspector Guides and Dry Cleaning Manuals were provided to the states for distribution to staff and the regulated community. During FY99, state personnel participated in EPA dry cleaning seminars present to dry cleaners in Houston, Texas and New Orleans, Louisiana. The City of Houston began inspecting dry cleaners and issuing fines this fiscal year.

As a result of entry denial, Region 6 set in motion the procedure for issuing inspection warrants to three dry cleaning sites located in San Antonio, Texas. Inspections will be completed in FY2000.



**Priority:** Oil Pollution Act (OPA)

**Activity:**

FY99 was a banner year for this program. The Spill Prevention Containment and Countermeasures (SPCC) expedited enforcement program was piloted in FY98 and has continued in an operational mode. In April 1999, a new expedited enforcement program addressing spills was piloted. Conventional administrative penalty orders were issued, and a judicial case for a major oil spill was referred to DOJ for prosecution. In addition, two major oil spill cases were settled, in principle.

**Accomplishments:**

Due to the use of the expedited processes mentioned above, Region 6 became the first EPA region in the history of the Agency to evaluate every SPCC inspection and every reported oil spill for OPA enforcement follow up.

Activities include:

Judicial Cases: 1 DOJ Referral

Two Judicial Case Settlements:

- 1) \$30 million cash + \$5 million Supplemental Environmental Project (SEP) + Major Injunctive Relief
- 2) \$1.050 million

Expedited Case Settlements:

SPCC - 86  
Spills - 31

(Conventional) Administrative Penalty Orders:

SPCC - 9  
Spills - 4



**Priority:** Title V Enforcement

**Activity:**

Title V Annual Compliance Certification (ACC) Guidance: On December 22, 1998, the Compliance Assurance and Enforcement Division issued a guidance document to Region 6 states regarding Title V annual compliance certifications. The Title V federal and state rules require the facility's responsible official to annually certify compliance with their Title V permit conditions. The guidance document explains what should be included in the compliance certifications in light of the revised federal operating permit rule dated October 22, 1997. Region 6 intends to work with State/local agencies as they develop and finalize their operating permits compliance certification forms.

ACC Review: Region 6 reviewed ACCs, identified those facilities not submitting timely ACC, and forwarded to states those sources identifying non-compliance with their permit application.

Title V Compliance Certification Outreach to Industry: The Air Enforcement Section spoke to several entities including the regulated community and permitting authorities.

**Accomplishments:**

Title V ACC Guidance: As a result of the December 22, 1998, regional guidance document, four out of five states have finalized their ACC forms. These forms provide detailed and consistent compliance data that can be used to assure compliance. The forms are designed for the source's responsible official to provide detailed information when the responsible official indicates a deviation from a title V permit term or condition. The ACCs help improve air quality by increasing the awareness and responsibility of high level source managers to certify the compliance status of their facility.

ACC Review: Region 6 conducted an administrative review of all ACCs. After comparing the ACCs to the significant violators list, as well as other criteria, a further detailed review was conducted on 43 ACCs. These reviews were used to target facility-wide air inspections for FY2000. ACC's and air inspections are enforcement tools used to assure compliance in an effort to improve air quality. During the summer of 1999, the Region sent a letter to Region 6 states indicating those facilities that did not submit timely ACCs and requested the states to compare their list to our list and take appropriate enforcement action, as necessary. Also, this letter included those facilities that disclosed a noncompliance status with their permit application. The Region encouraged the states to conduct a further investigation and appropriate enforcement action.

Title V Compliance Certification Outreach to Industry: On April 28, 1999, the Air Enforcement Section spoke at the Arkansas's Air Regulation Update Seminar in Little Rock, Arkansas. The



seminar is sponsored by the Arkansas Environmental Federation with assistance from the Arkansas Department of Environmental Quality. This presentation focused on a facility's title V annual compliance certification responsibilities. A facility's responsible official is required to identify annually their compliance status and method for each permit term or condition. Also, deviations and exceedances from permit terms must be identified and taken into account in the certification. The discussion was well received by the 150 participants as the majority of the questions pertained to what constitutes a deviation and Arkansas' new annual compliance certification form.

On June 15, 1999, a representative from the Air Enforcement Section spoke at the annual STAPPA/ALAPCO/EPA Enforcement and Compliance Workshop. Rich Biondi (EPA-OECA), Curt Marshall (ALAPCO Chair), and David Garcia formed a panel to discuss Enforcement of the Title V Permit Program. The discussion focused on title V implementation issues, such as the fact that permit terms issued under a SIP-approved permit program are considered Federally enforceable, and title V permits may not supersede, void, or replace past permits, as well as annual compliance certifications. The discussions were productive and may initiate future guidance on how to take action on permit deviations identified in the compliance certification, the determination of a violation, and how to assess a penalty.

On March 29, 1999, a representative from the Air Enforcement Section spoke at the National Environmental Health and Safety Conference for the Graphic Communication Industries, in Houston, Texas. His discussion will focus on EPA's October 1997, Compliance Assurance Monitoring rule. The CAM rule is intended to address title VII of the 1990 Amendment that EPA promulgate enhanced monitoring and compliance certification requirements for major sources. This rule will be implemented through the title V Operating Permits program.



**Priority:** Title V Enforcement

**Activity:**

During FY98 and FY99, the Region committed to conduct inspections at 14 Hazardous Organic National Emission Standards for Hazardous Air Pollutants (HON) facilities and initiate three administrative penalty orders (APO) and one civil referral for violations identified during those inspections.

**Accomplishments:**

In FY98, the Region conducted 14 inspections at HON facilities which resulted in two civil referrals, four APOs, and one state-lead enforcement case. No violations were identified at three facilities, and four inspection reports are under review. In FY99, the Region conducted seven inspections at HON facilities, for which six inspection reports are under review and no violations were identified at one facility. Where a Title V permit and/or an application was available, these were reviewed prior to conducting the inspection.



**Priority:** Federal Facilities

**Activity:** Environmental Management Reviews (EMR)

Over the past few years, EPA Region 6 has lead the way toward promoting compliance assistance to the Federal regulated community through the use of EMRs. We conducted these reviews at various Federal sites and found these site visits to be helpful to the Federal facility.

In FY99, Region 6 conducted EMRs at the Department of Energy (DOE), Strategic Petroleum Reserve Bryan Mound, DOE SPR Bayou Choctaw, and the DOE Program Management Office. The EPA spent one to two days at each site investigating their environmental management practices. The EMR consisted of interviews and document reviews. The EMR draft report was prepared and commented on by DOE and covered the seven EMR disciplines as follows:

1. Organizational Structure
2. Environmental Commitment
3. Internal and External Communication
4. Formality of Environmental Programs
5. Staff Resources Training and Development
6. Program Evaluation and Reporting
7. Environmental Planning and Risk Management

The EPA compliance assistance tools focuses on the necessity of state-of-the-art environmental management systems (EMS). The tools used for EMRs include, the *Implementation Guide for The Code of Environmental Management Principles for Federal Agencies (CEMP)* (March 1997), and the *Generic Protocol for Conducting Environmental Audits of Federal Facilities* (December 1996).

**Accomplishments:**

The EPA reviewed facility documents, conducted interviews and site tours, and then prepared a draft report of findings and recommendations. The findings serve as a measurement on how the facility meet or exceed established principles and the recommendations provide information on how the facility can enhance its environmental management system.

The EMR is a tool used to assist Federal agencies in reaching the highest levels of environmental performance and to meet or exceed its regulatory compliance requirements. The EPA uses EMS implementation as a means to identify weaknesses in an organization's approach to compliance and to examine its internal compliance assurance process.



**Priority:** Federal Facilities

**Activity:** Compliance Assistance

Federal agencies are subject to the requirements of several Executive Orders that address environmental issues. The *Federal Compliance with Pollution Prevention Control Standards* makes the head of each Federal agency responsible for compliance with applicable pollution control standards and also directs EPA to provide technical advice and assistance to those agencies to ensure effective and timely compliance. Also, the Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements directs Federal agencies to practice pollution prevention by developing agency strategies and facility plans to promote source reduction and also directs EPA to provide technical assistance to Federal agencies to meet those requirements.

Region 6 hosted several environmental seminars in FY99. These seminars covered a wide variety of topics from environmental protection policies to specific regulatory requirements. The Environmental seminars provided to the Federal regulated community were:

- C 404 Wetlands Permits
- C NPDES Storm Water
- C Toxic Release Inventory
- C Risk Management Plans
- C Supplemental Environmental Projects and State Inspections
- C Enforcement Policies and Regulations
- C Geographical Information System - Environmental Screening
- C Pollution Prevention Workshop

We also post monthly "Did You Know" fact sheets on the web. The fact sheets are developed and individual Regional staff are identified as key points of contacts. These efforts are to help the agency fulfill its goal to help Federal agencies be a model for compliance, to not just meet regulatory requirements but to exceed in compliance assurance.

### **Accomplishments:**

Over the past two years, EPA geared its annual environmental conferences to targeted seminars and workshops. These seminars provided specific compliance assistance on EPA and State environmental regulations and policies. For example, State inspectors provided information on commonly found violations that facilities should be aware of and regulators provided technical information to help facilities with their pollution prevention and compliance efforts.



**Priority:** Enforcement pursuant to the Emergency Planning and Community Right-to-Know Act (EPCRA), Section 313 (toxic chemical emissions reporting)

**Activity:**

More extensive research into characterizing potential EPCRA 313 inspection targets has proven effective in eliminating unlikely targets, while at the same time improving targets for likely violators.

**Accomplishments:**

Historically, the “hit rate” for EPCRA 313 violations has ranged from about 12 percent to 20 percent. For FY99, 49 inspections were completed. Of these 49 EPCRA 313 inspections, 21 have either confirmed or were very likely EPCRA 313 violations. This reflects an enforcement success rate of approximately 43 percent, more than double the best historical rate.

Of these 21 FY99 violations, 5 were actually issued during FY99. Additionally, seven backlogged cases from FY98, and an Order of Non-Remittance to recover the penalty balance from a facility not completing its Supplemental Environmental Project (SEP), were also issued during FY99. In all, 13 cases were issued in FY99. Issuance of the remaining 16 FY99 cases will be completed within the first 2 quarters of FY2000.



**Priority:** CERCLA 103 / EPCRA 312 Enforcement Program

**Activities:**

Enforcement of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) §103, and the Emergency Planning and Community Right-to-Know Act (EPCRA) §§301-312 is the responsibility of the Preparedness and Prevention Team in EPA Region 6. Enforcement of these programs began in the third quarter of 1990.

There are 3 purposes to an enforcement program within the Preparedness Program:

- (1) provide deterrence to further noncompliance through reasonable penalties;
- (2) provide incentive to other noncompliant facilities to come into compliance; and,
- (3) enhance the capabilities of LEPCs through Supplemental Environmental Projects (SEPs) in the community where the facility in noncompliance is located.

Enforcement actions provide an opportunity for the facility to become actively involved in the local planning and response process, and assist the Local Emergency Planning Committees (LEPC) in their activities. Facilities, through the use of SEPs, have provided such services as:

- emergency or computer equipment to the LEPC
- training to emergency personnel
- membership in the LEPC by the facility and active participation in the planning process
- articles developed by the facility, reviewed by the Region, and submitted to trade journals on compliance
- chairmanship of the LEPC for a period of two years
- support of area-wide or state-wide LEPC conferences
- environmental or chemical safety audits performed at the facility to improve its safety, emergency planning, and emergency response programs, and
- reduction or substitution of hazardous chemicals.

**Accomplishments:**

In FY99, a total of 29 Administrative Complaints were issued for violations of CERCLA 103 and EPCRA 312. A total of \$379,000 in proposed penalties were issued. Additionally, a total of 24 Consent Agreements and Orders were completed. A total of \$770,000 in SEPs were provided for to assist LEPCs in their work, along with prevention programs within the facility.

**Priority:** Wetlands Enforcement Program



**Activity:**

FY99 continued the expansion of the Region 6 wetlands enforcement program and the strengthening of the partnership with the Corps of Engineers (COE). Based on input received from the COE and state agencies at our annual regulatory roundtable meetings, additional FTE support was focused on wetlands enforcement.

**Accomplishments:**

This resulted in an increase in the number of formal actions over the previous year, from eight formal actions and no referrals to the Department of Justice (DOJ) in FY98 to ten formal actions and one referral to DOJ this year. Focus was put on increasing the deterrence value of each case to more effectively communicate the importance of compliance. The Region now has ongoing enforcement actions in every state and all eight COE districts within the Region.



**Priority:** Pesticides Program

**Activities:**

Region 6 has a very strong Section 7 Enforcement Program with one position dedicated towards reviewing pesticide production reports, developing cases for failure to report pesticide production, assisting companies with establishment registration, and approving import Notices of Arrival.

**Accomplishments:**

Section 7

Region 6 had a total of 92 complaints and 50 warning letters, for a total of 142 enforcement actions. This resulted in \$195,630 in total penalties collected in FY99. As a result of this effort, pesticide producers in Region 6 are more aware of the Section 7 reporting requirements and more likely to comply than in past years.

Section 12

Six cases have been sent to legal for the issuance of civil complaints. Four of the six cases are for “unregistered products.” One case is for “registrant/dealer sold registered pesticide for unregistered use” and one for “use inconsistent.” One warning letter was issued during FY99. The warning letter was issued for “distribution without registration.”



**Priority:** Lake Pontchartrain Basin

**Activity:** Lake Pontchartrain Basin Activities

The Lake Pontchartrain Basin consists of an estuary lake complex with four major rivers that drain portions of 15 parishes. Within these parishes, there are over 800 municipal, industrial, or agricultural point source dischargers. Over 1500 stream miles within the Basin are restricted in their designated uses. The most common use that cannot be achieved is primary contact recreation. Improperly treated sewage from sanitary sewage overflows, improperly operated package treatment plants, leaking dairy lagoons, and failing septic tank systems have created Fecal Coliform problems which prevents usage of the Tangipahoa River and portions of Lake Pontchartrain for primary contact recreation.

To address the water quality problems in the Basin a number of activities have been ongoing for several years, including:

- inspection and enforcement by LDEQ against small dairies in the Basin to place liners in leaking lagoons
- enforcement action by EPA against non-delegated facilities for causing or contributing to water quality problems
- enforcement action by LDEQ against delegated facilities for causing or contributing to water quality problems, and
- on-site technical assistance provided to small wastewater treatment facilities by the Louisiana Rural Water Association and funded by the Lake Pontchartrain Basin Foundation.

#### ACCOMPLISHMENTS:

Improvements in water quality are becoming apparent, especially in the Tangipahoa River Basin. In stream water quality monitoring has shown that at three of the four monitoring stations fecal coliform concentrations are now compliant with water quality standards. Significant progress is being made toward making the Tangipahoa swimmable again. During FY1999, the EPA issued five administrative orders, two administrative penalty orders, placed 29 facilities (in the basin) in receivership, and continued to monitor ongoing construction under two consent decrees (New Orleans and Baton Rouge). The EPA also participated in an outreach effort to educate over 15 groups about compliance issues in the Tangipahoa River.

LDEQ played a significant role by issuing over 20 orders in the Basin and inspecting over 50 facilities. They also have placed an on-site technical advisor in the offices of Johnson Properties, so regulatory assistance is immediately available to deal with wastewater issues as efforts are ongoing with the court-appointed receiver to improve operation at the Johnson



Property facilities.

The circuit rider provided on-site assistance to over 100 small facilities in the basin through over 440 contacts. These efforts are working to optimize operation of existing problem facilities.



**Priority:** Texas City

**Activity:** Air Toxics, Compliance Assistance, Managing Risk

Region 6 co-hosted a cooperative project to facilitate implementation of EPA's Risk Management Program. The Risk Management Program, required under section 112(r) of the Clean Air Act Amendments, consisted of classroom discussions and on site auditing of Risk Management Plans (RMP) from six participating facilities. Seven EPA Regions, EPA Headquarters, Louisiana Department of Environmental Quality, Occupational Safety and Health Administration (OSHA), and the Texas City LEPC also participated in the program.

**Accomplishments:**

The following was accomplished:

- training for federal and state inspectors;
- tested and improved EPA's RMP audit/inspection protocols;
- provided national consistency in EPA's implementation of the RMP;
- provided feedback to the participating facilities regarding implementation of their risk management programs; and
- promote consistent implementation of the overlapping portions of the RMP rule and OSHA's Process Safety Management rule.



**Priority:** Presidential Initiatives

**Activity:** Project XL - Reinvention

The Regions were tasked with obtaining 5 or more project submittals prior to the end of FY99. At the end of FY99, Region 6 had a total of 7 that qualified. There were:

- two projects selected (Cities of Albuquerque, NM and Denton, TX),
- two proposals submitted (City of Ft Worth & NASA White Sands), and
- three letters of intent to file a proposal (City of Houston, Houston Port Authority & CKWitco)

**Accomplishments:**

All the projects are ongoing at this time. The hope is that with the relief granted, if all the project are selected negotiated and implemented, the environment will benefit either directly (decreased emissions), or indirectly (relief granted saves money and the money saved is used to finance other efforts (e.g. Pollution Prevention projects)).



**Priority:** Administrator/ECOS Initiatives

**Activity:** Burden Reduction

Regions were tasked to work with a state in the region as a pilot to reduce reporting burdens. As quoted from a letter from Administrator Browner to Robert Shinn, President of the Environmental Council of States (ECOS), dated September 11, 1998, the goal of the project is to "...improve data quality, enhance efficiency, reduce reporting burdens and expand public's right to know about environmental and public health issue's affecting their communities." Region 6 chose Arkansas as its pilot state. Region 6 staff and managers has been working with the State to identify areas of burdensome and inefficient reporting that can be eliminated and/or improved.

**Accomplishments:**

Process is still ongoing; however, many areas have been and are continuing to be identified for elimination, improvement, or change in the form of report (paper to electronic, etc.)



**Priority:** National Environmental Policy Act (NEPA) Compliance

**Activity:**

The Cumulative Risk Index Analysis (CRIA) uses Geographical Information System (GIS) data to assess potential cumulative impacts resulting from EPA actions, such as new source National Performance Discharge Elimination System (NPDES) permits. The CRIA uses a mathematical algorithm consisting of the area of a watershed sub-unit, degree of environmental vulnerability, and the degree of environmental impact. The CRIA is calculated for each facility in the watershed sub-unit and related back to the total area of the watershed. Each site is scored on a 1-5 scale for 14 vulnerability criteria and 16 impact criteria. By summing the scores for each project, potential cumulative impacts can be compared. The CRIA was developed in coordination with industry and agency representatives, environmental groups, risk assessors, academia, and the public.

**Accomplishments:**

The CRIA provides a better understanding of the cumulative effects resulting from multiple projects within 11-digit watershed subunits. The CRIA has received widespread interest as a "GIS driven and watershed focused approach" of evaluating cumulative impacts. The full potential of this compliance assurance tool is still evolving, and recognized benefits include: 1) increased communications between EPA, industry, and other interested parties; 2) more applicability of GIS to other EPA programs as a multi-media tool; and 3) added value to EPA and States in improving the environmental review and decision-making process. The CRIA methodology was accepted for publication in the journal, *Environmental Monitoring and Assessment*.



# **State Relations**



## **STATE RELATIONS**

### **Performance Partnership Agreements (PPA)/Performance Partnership Agreements (PPG):**

Three of the Five Region 6 States are currently in PPAs and PPGs; they are Louisiana, Oklahoma, and Texas. Arkansas and New Mexico continue to make use of individual grants and workplans for its programs. The Louisiana PPA has the Enforcement Memorandum of Understanding (MOU) as an appendix to its PPA, which was signed February 18, 1998. The Texas PPA does not contain enforcement activities; however, the Enforcement MOU was successfully completed in April 1999, and will serve as the primary tool for working with the State. In addition, the Texas PPA contains a Compliance Assistance component. Oklahoma does not have real enforcement components in either the PPA or PPG. Negotiations with Oklahoma on a multi-media MOU have been unsuccessful.

### **Joint Planning and Priority Setting:**

In FY99, Region 6 made significant strides in working with our States in joint planning and priority setting. Through the Environmental Council of States Survey exercise, many of our States requested more involvement in the planning and priority setting process. To address this during the FY2000 Memorandum of Agreement (MOA) development, Region 6 engaged early on in discussions with our States. After the initial Draft OECA MOA Guidance was issued in February 1999, we developed state-specific presentations providing the Regional analysis of the National priorities as well as Regional priorities. Initial meetings were held in the spring to obtain the State's perspective as to how the priorities fit into each State's plans. Focus for these meeting included:

- discussing which priorities pertain to each state,
- determining what roles each organization will play in meeting the priorities, and
- discussing State priorities and how EPA can assist.

Additional discussions were held throughout the spring and summer as we prepared our MOA. Several of the Regional priorities were identified based on direct input from, and at the request of our States. We have received a lot of positive feedback and we anticipate that most of the States will provide a letter acknowledging their participation in the MOA development process. These letters are included as an appendix in the final FY2000 MOA.



# **Case Summaries**



## CASE SUMMARY

**Case Name:** Acadia Woods Add. #2 Sewer Co., et. al.

**Docket Number:** Civil Action No. 6:98CV0687

**Facility Name:** Johnson Properties, Inc., a.k.a. Acadiana Treatment Systems, Inc.

**Case Type:** Judicial Referral

**State:** Louisiana

**Statute:** Clean Water Act

**Program:** NPDES/LPDES

**Media Addressed:** Water

**Settlement Date:** Consent Decree filed July 31, 1998;  
Judgment signed March 22, 1999 - (Receivership)

**Sector:** Privately owned sewage treatment facilities

**Pollutants reduced and amounts:** Biochemical Oxygen Demand, Total Suspended Solids, Ammonia-Nitrogen, and Fecal Coliform. The amount of the reduction in pollutants cannot be estimated at this time. There are approximately 179 facilities in Louisiana alone and noncompliance at these facilities vary from month to month. There has been significant concern about the quality of data reported under the previous management which renders the validity of any calculation, suspect. The goal is to ensure that all facilities are brought into compliance with the permitted effluent limitations at each of the respective facilities. The permitted limitations vary dependent on the type of facility and the receiving stream.

**Penalty Amount:** Not applicable. The original Consent Decree did not seek up-front penalties when it was filed, instead, deferring the matter in favor of achieving compliance first. There are hundreds of thousands of dollars in stipulated penalties which have accrued under the Consent Decree to date, however, the companies have filed for bankruptcy. The companies are currently under receivership and under the control of a third party.

**Criminal:** Not Applicable/Available

**SEP Description:** There is no supplemental environmental project associated with this case at this



time.

**Contacts:**    Technical: Brad Crawford, (214) 665-6453  
                  Legal: Carlos Zequeira, (214) 665-8053



## **CASE SUMMARY**

**Case Name:** Sheffield Steel Corporation RCRA §3013 Voluntary Agreement

**Docket Number:** RCRA-6-3013-001-99

**Facility Name:** Sheffield Steel Corporation  
Sand Springs, Oklahoma

**Case Type:** Administrative - Voluntary

**State:** Oklahoma

**Statute:** RCRA §3013

**Program:** RCRA Enforcement - Corrective Action

**Media(s) addressed:** Soil, Surface Water, Ground Water

**Settlement date:** October 23, 1998

**Sector:** Steel industry

**Pollutant(s) expected to be reduced and amount of reduction:** N/A

**Penalty amount:** N/A

**Sentence:** N/A

**SEP Description:** N/A

**Contacts:** Technical: Michael A. Hebert, (214) 665-8315  
Legal: Marcia Moncrieffe, (214) 665-7343



## **CASE SUMMARY**

**Case Name:** Exxon Chemical Company RCRA §3008(h) Letter Agreement

**Docket Number:** VI-003(H) 99-H

**Facility Name:** Exxon Chemical Company  
Houston, Texas

**Case Type:** Administrative - Letter Agreement

**State:** Texas

**Statute:** RCRA §3008(h)

**Program:** RCRA Enforcement - Corrective Action

**Media(s) addressed:** Soil, Ground Water

**Settlement date:** October 4, 1999

**Sector:** Industrial Organic - Chemical Manufacturing

**Pollutant(s) expected to be reduced and amount of reduction:** benzene, toluene, arsenic, lead, mercury, and nickel

**Penalty amount:** N/A

**SEP Description:** N/A

**Contact:** Technical: Sue Westbrook, (214) 665-8321  
Legal: Marcia Moncriffe, (214) 665-7343



## CASE SUMMARY

**Case Name:** Encore Wire Corporation

**Docket Number:** MM-06-0230, E, W

**Facility Name:** Encore Wire Corporation

**Case Type:** Administrative Penalty

**City, State:** McKinney, TX

**Statute:** EPCRA 313 and Clean Water Act

**Program:** Toxic Release Inventory Reporting (TRI) and Storm Water Permits

**Media Addressed:** Air, Water

**Settlement Dates:** Complaint Issued: April 17, 1998  
CACO Issued: January 5, 1999

**Sector:** Non-ferrous metals, SIC Code 3357

**Pollutants reduced and amounts:** Emissions from the following toxic chemicals had not been previously reported to EPA's Toxic Release Inventory database nor to the State of Texas for the years specified:

| Range of              |                           |              |             |
|-----------------------|---------------------------|--------------|-------------|
| <u>Toxic Chemical</u> | <u>Emissions (lbs/yr)</u> | <u>Media</u> | <u>Year</u> |
| copper                | 500-999                   | fugitive air | 1994        |
| copper                | 500-999                   | fugitive air | 1995        |
| lead compounds        | 11-499                    | fugitive air | 1994        |
| lead compounds        | 11-499                    | stack air    | 1994        |
| lead compounds        | 11-499                    | fugitive air | 1995        |
| lead compounds        | 11-499                    | stack air    | 1995        |
| antimony compounds    | 11-499                    | fugitive air | 1994        |
| antimony compounds    | 11-499                    | stack air    | 1994        |
| antimony compounds    | 11-499                    | fugitive air | 1995        |
| antimony compounds    | 11-499                    | stack air    | 1995        |
| methyl ethyl ketone   | 15,386                    | fugitive air | 1995        |

**Penalty Amount:** Combined EPCRA 313 and Storm Water Permit violations were settled for \$124,950. Of this amount, the majority was from EPCRA 313 violations (\$110,000)

**Criminal:** Not Applicable/Available

**SEP Description:** There was no supplemental environmental project associated with this case.



**Contacts:**     Technical: Morton E. Wakeland, Jr., (214) 665-8116  
                     Legal: Mark Forcier; no longer with EPA